

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1355 Gainesville Regional Utilities, Alachua County

SPONSOR(S): Local Government Affairs Subcommittee; Perry

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	8 Y, 3 N, As CS	Darden	Miller
2) Regulatory Affairs Committee			

SUMMARY ANALYSIS

HB 1355 is a local bill amending the charter for the City of Gainesville to establish the Gainesville Regional Utilities Authority (Authority). Currently, Gainesville Regional Utilities (GRU) is a municipal utility under the authority of the Gainesville City Commission. GRU provides electric, natural gas, water, wastewater, and telecommunications services. The bill transfers authority over the GRU system from the city commission to the Authority, a board to be appointed by the city commission. The bill details Authority's governance and leadership structure, as well as duties and powers. In summary of its main components, the bill:

- Repeals Section 3.06 of the current City of Gainesville charter relating to the general manager for utilities.
- Establishes the Authority as a regional utilities authority.
- Provides that the Authority is a unit of city government, but free from the direction and control of the city commission and city charter officers.
- Provides that the Authority will consist of 5 members appointed by the city commission.
- Sets qualification requirements for Authority members.
- Provides that the monthly salary for members of the Authority will be \$18,000, adjusted by the consumer price index.
- Staggers the term time period for initial Authority members and provides for four year terms thereafter.
- Provides for removal of members from the Authority for cause, and sets forth grounds for removal from office.
- Gives the Authority the power of eminent domain.
- Gives the Authority exclusive power and authority to bill and collect fees or charges for all utilities.
- Provides that a Chief Executive Officer/General Manager (CEO/GM) will direct and administer utilities functions under the Authority's policies and authority.

The bill takes effect upon its approval by a majority vote of the qualified electors of the City of Gainesville voting in a referendum to be held in March 2017, in conjunction the City of Gainesville's municipal elections, except that sections 4 and 5 shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Municipal Utilities

Pursuant to Art. VIII, s. 2(b), of the State Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. The legislative body of each municipality has the power to enact legislation on any subject upon which the state Legislature may act, with certain exceptions.¹

Under their home rule power and as otherwise provided or limited by law or agreement, municipalities may provide utilities to citizens and entities within the municipality's corporate boundaries, in unincorporated areas, and even other municipalities. Current law provides that municipalities or an agency of a municipality may be a "joint owner of, giving, or lending or using its taxing power or credit for the joint ownership, construction, and operation of electrical energy generating or transmission facilities with any corporation, association, partnership or person."² Additionally, municipalities are expressly authorized by general law to provide water and sewer utility services.³ With respect to public works projects, including water and sewer utility services,⁴ municipalities may extend and execute their corporate powers outside of their corporate limits as "desirable or necessary for the promotion of the public health, safety and welfare" to accomplish the purposes of ch. 180, F.S.⁵ Current law requires municipalities providing telecommunication services to abide by certain requirements.⁶ Municipal utilities are subject to limited oversight by the Public Service Commission (PSC).⁷ PSC regulation of municipal electric utilities is limited to oversight of safety, reliability, territorial, and rate structure issues.⁸ PSC regulation of municipal natural gas utilities is limited to territorial issues.⁹ Municipal utilities that provide water and/or wastewater service are exempt from PSC regulation.¹⁰

Gainesville Regional Utilities

¹ Pursuant to s. 166.021(3)(a)-(d), F.S., a municipality may not enact legislation on the following: the subjects of annexation, merger, and exercise of extraterritorial power, which require general law or special law; any subject expressly prohibited by the constitution; any subject expressly preempted to state or county government by the constitution or by general law; and any subject preempted to a county pursuant to a county charter adopted under the authority of the State constitution.

² Art. VII, s. 10(d), Fla. Const. See ss. 361.10-361.18, F.S.

³ Pursuant to s. 180.06, F.S., a municipality may "provide water and alternative water supplies;" "provide for the collection and disposal of sewage, including wastewater reuse, and other liquid wastes;" and "construct reservoirs, sewerage systems, trunk sewers, intercepting sewers, pumping stations, wells, siphons, intakes, pipelines, distribution systems, purification works, collection systems, treatment and disposal works" to accomplish these purposes.

⁴ S. 180.06, F.S., authorizes other public works projects, including alternative water supplies, maintenance of water flow and bodies of water for sanitary purposes.

⁵ S. 180.02(2), F.S. However, a municipality may permit any other municipality and the owners of lands outside its corporate limits or within the limits of another municipality to connect with its water and sewer utility facilities and use its services upon agreed terms and conditions. S. 180.19, F.S.

⁶ See s. 166.047, F.S. (setting forth certain requirements for municipal telecommunication services); s. 350.81, F.S. (providing conditions under which local governments may provide telecommunications services).

⁷ See s. 366.011(1), F.S. (exemption for municipal utilities); s. 367.022(2), F.S. (exempting governmental entities that provide water and/or wastewater service from PSC regulation).

⁸ Sections 366.04(2), (5), and (6), F.S. As of December 2014, there are 34 municipal electric utilities currently subject to this limited jurisdiction. PSC, *Facts and Figures*, published April 8, 2015, available at http://www.floridapsc.com/Files/PDF/Publications/Consumer/Brochure/Facts_Figures.pdf (last visited Jan. 17, 2016).

⁹ S. 366.04(3), F.S. As of December 2014, there are 27 municipal electric utilities and 4 special gas districts currently subject to this limited jurisdiction. PSC, *Facts and Figures*, published April 8, 2015, available at http://www.floridapsc.com/Files/PDF/Publications/Consumer/Brochure/Facts_Figures.pdf (last visited Jan. 17, 2016).

¹⁰ S. 367.022(2), F.S.

Gainesville Regional Utilities (GRU) was established in 1912 as a city-run electric utility.¹¹ It is the fifth largest municipal electric utility in Florida, serving approximately 93,000 retail and wholesale customers in Gainesville and surrounding areas.¹² GRU offers electric, natural gas, water, wastewater, and telecommunications services. An audit for 2012-2013 states that GRU in September 2013 had \$1.2 billion in capital assets, and budgets of \$77.2 million and \$95.2 million in 2014 and 2013, respectively.¹³ An audit for 2013-2014 states that GRU's capital assets as of September 2014 increased to \$2.2 billion, noting that the 82% increase in net capital assets was primarily due to a capital lease related to a biomass plant.¹⁴ According to the audit, GRU's net financial position increased by \$16.8 million in 2012 but decreased by \$1.7 million and \$14.1 million in 2014 and 2013, respectively.¹⁵

There are 34 municipal electric utilities in Florida.¹⁶ GRU's residential electric utility rates in November 2015 were the highest in the state among municipal utility providers.¹⁷

The City of Gainesville's charter provides that the city commission appoints an at-will general manager for utilities who is responsible to the city commission and who is responsible for the efficient administration of the utility system.¹⁸ The city commission is comprised of seven members: four elected from single member districts, two elected at-large, and one who is elected as mayor.¹⁹

The charter sets forth the general manager's powers and duties, which provide that the general manager is:²⁰

- Responsible for and has exclusive management jurisdiction and control over operating and financial affairs of the utility system including, but not limited to, the planning, development, production, purchase, sale, exchange, interchange, transmission and distribution of all electricity; the planning, development, purchase, sale, exchange, interchange, transmission and distribution of all natural gas; the planning, development, supply, treatment, transmission, distribution and sale of all potable water; and the planning, development, collection, treatment, disposal and billing of all wastewater now or hereafter provided by the city;
- Required to submit to the city commission for its consideration a yearly budget for the operation of the utility system;
- The purchasing agent for all equipment, materials, supplies and services necessary for operating and maintaining the utility system subject to policies promulgated by the commission;
- Required to propose ordinances to designate the job titles of subordinates that are to be considered directors of department;
- Required to appoint and, except as otherwise provided in this charter, remove all directors of departments at will;
- Required to recommend to the city commission all measures necessary and expedient for the proper governance and management of the utility system;

¹¹ Gainesville Area Chamber of Commerce, *A Gainesville Solution: Energy Competitiveness Report* (November 2013), at 41. Available at <http://www.gainesvillechamber.com/2013/11/gainesville-chamber-releases-energy-competitiveness-report/> (last visited Jan. 25, 2016).

¹² About GRU, available at <https://www.gru.com/AboutGRU.aspx> (last visited Jan. 17, 2016).

¹³ Gainesville Regional Utilities, September 30, 2013 and 2012, Report of Independent Certified Public Accountant, Ernst & Young LLP, available at <https://www.gru.com/Portals/0/Legacy/Pdf/AboutGRU/2012-2013AuditedFinancialStatement.pdf> (last visited Jan. 17, 2016).

¹⁴ Gainesville Regional Utilities, September 30, 2014 and 2013, Financial Statement and Independent Auditors' Report, Purvis Gray & Company, available at <https://gainesville.legistar.com/LegislationDetail.aspx?ID=2211585&GUID=55D68315-98BC-43E9-AB20-F8988B4C98E3&Options=&Search> (last visited Jan. 17, 2016), at p. 8.

¹⁵ *Id.* at p. 5.

¹⁶ Florida Municipal Electric Association, Florida Municipal Utility Map, available at <http://publicpower.com/florida-municipal-utility-map/> (last visited Jan. 17, 2016).

¹⁷ Florida Municipal Electric Association, Florida Electric Bill Comparisons, available at <http://publicpower.com/electric-rate-comparisons/> (last visited Jan. 17, 2016).

¹⁸ City of Gainesville Charter, Art. III, s. 3.06.

¹⁹ City of Gainesville, *City Commission*, available at <http://www.cityofgainesville.org/CityCommission.aspx> (last visited Jan. 17, 2016).

²⁰ *Id.* at s. 3.06(2)(a)-(h).

- Required to keep the city commission fully advised as to the management, governance and needs of the utility system; and
- Required to perform all other duties prescribed by law, this charter, ordinance, or direction of the city commission.

The charter also prohibits the city commission from disposing of, or agreeing to dispose of, in whole or part, the city's electrical or water production or distribution facilities so as to materially reduce the City's capacity to produce or distribute electrical energy or water, except by ordinance with the prior approval of a majority vote of the qualified electors of the city.²¹

The Code of Ordinances for the City of Gainesville provides for an Energy Advisory Committee comprised of 9 members appointed by the city commission.²² The committee has the following duties, functions, powers, and responsibilities:

- Serve as a communications channel between the city commission, utility staff, and the citizens of the city, in order to understand and solve the many complex problems relating to energy;
- Promote public access to information on the city facilities, services, policies, and programs concerning energy, and consider the future energy needs of the community with respect to the utilities as well as general government;
- Assist utility staff by suggesting and reviewing policies affecting programs and services that affect acquisition, delivery, or utilization of energy resources within the community; and
- Perform any other duties which may be within the purview of the committee which may be assigned by the city commission.

There also is a Regional Utilities Committee, containing three city commissioners and an ex-officio member representing the Alachua County.²³

Chapter 27 of the Code of Ordinances for the City of Gainesville sets forth regulations pertaining to each municipal utility system.²⁴

In November 2013, the Gainesville Area Chamber of Commerce and Council for Economic Outreach submitted a report to the City of Gainesville.²⁵ The study, conducted by a 12-member Energy Study Group, led by Representative N. David Flagg, who is a former Mayor of Gainesville, and Dr. David A. Denslow, Jr., a retired University of Florida economist.²⁶ According to the report, Gainesville is a unique city with about 58% of property off the tax rolls.²⁷ The City Commission has directly governed GRU for over 100 years.²⁸ According to the report, GRU's combined municipal utility system operation is composed of five Enterprise Funds (Electric System, Water System, Wastewater System, Gas System, and Telecommunications/GRUCom).²⁹

The report provides four policy recommendations for the City of Gainesville "to help Gainesville remain a competitively advantaged community for sustainable economic development as it relates to overall energy costs."³⁰ The fourth recommendation provides that the method of governance be changed to an appointed utility authority.³¹ The report notes that JEA (formerly known as Jacksonville Electric Authority), is the largest municipal utility in Florida.³² It has a governance structure under which the

²¹ *Id.* at s. 5.04.

²² City of Gainesville Code of Ordinances, ch. 2, art. III, div. 7.

²³ Navigant Consulting LLC, *Re: Independent Investigative Review of the Gainesville Regional Utilities (GRU)*, April 15, 2015, at 171. Available at <http://www.cityofgainesville.org/CityCommission/NavigantReviewofGRU.aspx> (last visited Jan. 17, 2016).

²⁴ City of Gainesville Code of Ordinances, ch. 27, art. I-VI.

²⁵ *A Gainesville Solution: Energy Competitiveness Report*, *supra* note 11.

²⁶ *Id.* at p. 6.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at 43.

³⁰ *Id.* at 7.

³¹ *Id.*

³² *Id.* at 51.

board is appointed by the Mayor of Jacksonville, subject to confirmation by the Council.³³ The report also notes that the Orlando Utilities Commission board appoints its own members from a pool of candidates identified by a city nominating committee,³⁴ and that Lakeland Electric has a Commission/Customer Committee Hybrid.³⁵ The report states that the City of Tallahassee has a City Commission governance model.³⁶ According to the report, Florida cities with an appointed utility authority “are more competitive than Gainesville in commercial and industrial customer class electricity costs,” noting that Jacksonville, Orlando, Kissimmee, Fort Pierce, and New Smyrna Beach each have an appointed utility authority and that “[c]ommercial and industrial customer class electricity costs in those cities are significantly lower than in Gainesville.”³⁷

Effect of Proposed Changes

The bill repeals Section 3.06 of Article III of the City of Gainesville’s charter.³⁸ The section authorized the city commission to appoint a general manager for utilities. Since the bill makes the selection of the general manager for GRU a power of the Gainesville Regional Utilities Authority (Authority), this provision would be obsolete. Article 7.07(3) of the charter, however, provides that the current general manager appointed by the city shall be retained as the CEO/GM absent action by the Authority.

The bill amends the City of Gainesville charter by adding an article establishing the Gainesville Regional Utilities Authority. The following chart summarizes the provisions included in the charter amendment.

ARTICLE VII GAINESVILLE REGIONAL UTILITIES AUTHORITY	
7.01 Establishment	
	<ul style="list-style-type: none"> • Creates a regional utilities commission, named the “Gainesville Regional Utilities Authority (Authority)” • Provides that GRU will be governed by the Authority upon the installation of the authority’s governing members pursuant to Article VII • Authority operates as a unit of city government, but is “free from direction and control of the city commission and city charter officers” • List of express purposes for the Authority, including “otherwise having broad authority with respect to utilities”
7.02 Definitions	
	<ul style="list-style-type: none"> • Definitions for the purpose of Article VII <ul style="list-style-type: none"> ◦ “authority,” “city,” “city commission,” “county,” “GRU,” “member,” “utilities.”
7.03 Authority members	
7.03(1)	<ul style="list-style-type: none"> • Five members, appointed by a majority vote of the city commission <ul style="list-style-type: none"> ◦ One member must be a residential customer with “substantial knowledge of GRU, its operations, and its history ◦ One member must be the owner or representative of a private, non-governmental customer consuming at least 10,000 kilowatt hours per month of electricity during the previous twelve months. ◦ Three members shall be “competent and knowledgeable in one or more specific fields including, but not limited to, law, economics, accounting, engineering, finance, and energy” • Must be persons of recognized ability and good business judgment, as identified by the city commission
7.03(2)	<ul style="list-style-type: none"> • All members of the Authority must: <ul style="list-style-type: none"> ◦ Maintain permanent residence year-round within the Authority’s electric service

³³ *Id.* at 50.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.* at 7.

³⁸ Ch. 12760 (1927), Laws of Fla., as amended by ch. 90-394, s. 1, Laws of Fla.

	<ul style="list-style-type: none"> territory o Receive GRU electric utility system service at all times during appointment o Not have been convicted of a felony as defined by general law o Be qualified electors of the City of Gainesville, except that at least one voting member must be a resident of the unincorporated area of Alachua County or a municipality in the county other than the City of Gainesville
7.03(3)	<ul style="list-style-type: none"> • Composition of the Authority must be adjusted at the expiration of each member's term to reflect the ratio of electric meters serving customers in the unincorporated area to electric meters serving all customers • E.g., if 40% of GRU electric meters are serving customers in the unincorporated area of Alachua County, two members of the Authority must be appointed from the unincorporated area or from a municipality other than the City of Gainesville
7.03(4)	<ul style="list-style-type: none"> • Prohibits, until January 1, 2022, any current or previous city or county employee or any elected or appointed city or county officer or official, who was an employee or elected or appointed officer or official after January 1, 2000, from being a member
7.03(5)	<ul style="list-style-type: none"> • Voting members are prohibited from serving more than three full consecutive four year terms
7.04 Member terms	
7.04(1)	<ul style="list-style-type: none"> • Requires city commission to make initial Authority member appointments within 120 days from voter approval in the required referendum • Initial member term starts at midnight on October 1, 2017 • Staggered initial terms: one member each for a 1, 2, and 3 year term, two members with four year terms • Four year terms for subsequent appointments, taking effect at midnight on October 1 of the year in question • Members appointed to complete an unexpired term serve from the time of appointment until the end of the term
7.04(2)	<ul style="list-style-type: none"> • City commission is required to expeditiously schedule an appointment session and fill any voting member vacancy within 60 days after a permanent vacancy occurs or becomes known, if more than three months remains in the term
7.05 Member compensation	
	<ul style="list-style-type: none"> • Annual salary of \$18,000 starting October 1, 2017, indexed to the Consumer Price Index for All Urban Consumers • Necessary expenses are reimbursed in accordance with Authority policy and procedures, subject to approval by a majority of the members of the Authority • No supplemental benefits
7.06 Authority, oath, organization, and meeting	
7.06(1)	<ul style="list-style-type: none"> • Schedules initial meeting for October 4, 2017 at 6 p.m. at chambers of the city commission
7.06(2)	<ul style="list-style-type: none"> • Requires each member to take an oath or affirmation, given by the mayor or his/her designee, similar to the oath or affirmation required of a member of the city commission
7.06(3)	<ul style="list-style-type: none"> • First official act of the Authority is electing a chair and a vice chair from among its voting membership
7.06(4)	<ul style="list-style-type: none"> • Authority to meet at least once a month • Meetings to be noticed and open to the public • Minutes of each meeting kept in accordance with public records act, except that meetings related to settlement of pending litigation may be held in accordance with law.
7.06(5)	<ul style="list-style-type: none"> • GRU's "sitting general manager" is responsible for providing adequate notice and office space for initial meeting
7.07 Appointment and removal of chief executive officer/general manager	
7.07(1)	<ul style="list-style-type: none"> • CEO/GM responsible for direction and administration of utility functions
7.07(2)	<ul style="list-style-type: none"> • Authority can appoint or remove GEO/GM by majority vote
7.07(3)	<ul style="list-style-type: none"> • Sitting GM of GRU, absent further action by the Authority, shall be retained in

	office as CEO/GM ³⁹
7.07(4)	<ul style="list-style-type: none"> • Sitting member of the Authority may not be selected as CEO/GM
7.08 Removal and suspension of members	
7.08(1)	<ul style="list-style-type: none"> • A member may be removed or suspended in accordance with chapter 112, F.S.
7.08(2)	<ul style="list-style-type: none"> • A member may be removed for failure to maintain all voting qualification specified in section 7.03
7.08(3)	<ul style="list-style-type: none"> • A member who is the subject of a suspension or removal proceeding may not deliberate, debate, or vote on the matter
7.08(4)	<ul style="list-style-type: none"> • Suspension requires the votes of at least three members of the Authority
7.08(5)	<ul style="list-style-type: none"> • Removal or reinstatement requires the votes of at least three members of the Authority
7.09 General provisions	
7.09(1)	<ul style="list-style-type: none"> • City commission is required to create instruments necessary for the Authority to function in accordance with this article
7.09(2)	<ul style="list-style-type: none"> • Utilities-related ordinances, policies, rates, fees, rules, regulations, budgets, and other provisions previously adopted by the city commission are deemed adopted, reenacted, or assumed by the Authority • This provision does not affect the right of the Authority to make future changes • Repeals City of Gainesville and Alachua County charter provisions, ordinances, resolutions, decrees, and parts thereof, to the extent of conflict with this article
7.09(3)	<ul style="list-style-type: none"> • City of Gainesville and Alachua County are prohibited from charging a franchise, right-of-way, license, permit, tax, or usage fee to the Authority or GRU, unless allowed to do so by general law
7.09(4)	<ul style="list-style-type: none"> • Rights and privileges of any GRU employee, including the GM, as of the effective date of the article, are not impaired
7.09(5)	<ul style="list-style-type: none"> • Existing utility advisory boards created by the city commission may continue advising the commission, but may not have an advisory role as to the Authority, GRU, and the employees of the Authority and GRU
7.10 Powers and duties	
7.10(1)	<ul style="list-style-type: none"> • Authority's powers and duties are no less extensive than those exercised by the city commission with respect to GRU as existed on January 1, 2016, including powers and duties associated with management, operation, and control of the utilities
7.10(2)	<ul style="list-style-type: none"> • Authority has power to make rules, policies, and regulations consistent with charter and applicable law to govern its internal operations
7.10(3)	<ul style="list-style-type: none"> • Authority may not enact rules disposing or selling GRU property that are more expansive than the rules applicable to the city commission as of January 1, 2016
7.10(4)	<ul style="list-style-type: none"> • Authority is authorized to exercise the power of eminent domain for utilities purposes
7.10(5)	<ul style="list-style-type: none"> • Authority inherits all powers directly or indirectly affecting and controlling GRU as of the effective date of the Article • Authority retains rights, claims, actions, orders, and legal or administrative proceedings involving Authority assets and property
7.10(6)	<ul style="list-style-type: none"> • No Authority member is individually responsible for Authority debts
7.10(7)	<ul style="list-style-type: none"> • Authority must develop an ethics policy and code of business conduct policy, aiming to achieve best practices for municipal utilities, and review those policies at least biennially

³⁹ This language provides continuity in the period from March 2017 to Oct. 4, 2017, where the current GM position appointed by the city has been eliminated, but the governing board of the Authority has not yet taken office.

The bill provides that the chair of the Authority or his/her designee is authorized to execute documents required for the transition from the current management structure to the one implemented by the charter changes of the bill.

B. SECTION DIRECTORY:

- Section 1: Repeals section 3.06 of Article III of section 1 of chapter 90-394, Laws of Fla., authorizing the Gainesville City Commission to appoint a General Manager for Utilities.
- Section 2: Amends the charter of the City of Gainesville to establish the Gainesville Regional Utilities Authority to oversee and manage the city's municipal utility systems, which include the electric utility system, water utility system, wastewater utility system, re-use water utility system, natural gas utility system, communications utility system.
- Section 3: Provides that the chair of the authority or his/her designee is authorized to execute documents during the transition period.
- Section 4: Provides the form of the ballot question to be presented to the qualified electors of the City of Gainesville in the referendum provided for by Section 5.
- Section 5: Provides that the bill shall only take effect upon its approval by a majority vote of the qualified electors of the City of Gainesville voting in a referendum to be held in March 2017, except that Sections 4 and 5 shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☐ No ☒

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes ☒ No ☐

IF YES, WHEN? March 2017, in conjunction with the City of Gainesville's municipal elections.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not clearly specify ownership of the utility systems after creation of the Authority. Article 7.01 states that the Authority is a "unit of city government," but that it also has the power to acquire, construct, operate, finance, and provide utility-related products and services. Article 7.10 also contains language relating to the disposal or sale of GRU property by the Authority. The bill does not contain language regarding the transfer of GRU funds to the City of Gainesville. Between fiscal years 1990 and

2012, transfers from GRU to the city budget averaged 11.4 percent of city operating revenue per year.⁴⁰ These provisions could be clarified to ensure the bill is implemented as intended.

The bill states that the Authority is a “unit of city government,” but “free from direction and control of the city commission and the city charter officers.” If the bill is not intended or construed to allow the Authority to own utilities systems in its own right, it appears to authorize the Authority to finance, acquire, and construct such systems in the name of the City of Gainesville without consultation with or approval by the city commission. Because the bill does not specify any limits on the Authority’s financing authority, it may be construed to authorize the Authority to issue general obligation bonds in the name of the City. Further, because the bill defines “utilities” to include utility systems that are acquired in the future, beyond those systems currently operated by GRU, it may be construed to authorize the Authority to enter new lines of utility business in the name of the City.

Article 7.05 states that the necessary expenses of members shall be “paid in accordance with authority policy and procedures, subject to the approval of a majority of the members of the authority.” It is unclear if only the policy and procedures concerning payments are subject to a majority vote, or if each individual expense payment requires board approval.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 25, 2016, the Local Government Affairs Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment clarifies the transition process from city control of GRU to management by the Authority, clarifies the qualification standards for Authority members, and makes the powers and duties of the Authority more explicit.

This analysis is drawn to the bill as amended.

⁴⁰ *A Gainesville Solution: Energy Competitiveness Report*, supra note 11, at 11.